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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,590	04/03/2001	Douglas LaVell Hale	2100P	3726
7590	01/28/2005		EXAMINER	
SAWYER LAW GROUP LLP			FAROOQ, MOHAMMAD O	
P.O. Box 51418			ART UNIT	PAPER NUMBER
Palo Alto, CA 94303			2182	

DATE MAILED: 01/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/825,590	HALE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mohammad O. Farooq	2182	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 June 2001.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) 1 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 April 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: in page 2, lines 4, 8 and 9 of the specification the applicant refers to components 105-114 of figure 1. However, there is no component which is labeled 105. This office action treats above mentioned components being 106-114. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is objected to because of the following informalities: in line 7 of claim 1, the applicant states "layer manage". There seems to be a typo. This office action treats this line as being "layer manager". Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Tanaka et al. U.S. Pat. No. 5,903,568.

4. As to claim 1, Tanaka et al. teach method comprising the steps of:

(a) receiving data from a first stack component of the protocol stack by a layer manager (col. 6, lines 21-59);  
(b) analyzing the data for instrumentation information by the layer manager (col. 6, lines 21-59; in fig. 3, combination of items 101, 102, 103, 104, 105, 109 and 106) ; and

(c) routing the data to a second stack component of the protocol stack by the layer manager (col. 6, lines 21-59).

5. As to claim 2, Tanaka et al. teach wherein the layer manager interfaces with each stack component of the protocol stack (fig. 3, combination of items 101, 102, 103, 104, 105, 109 and 106).

6. As to claim 3, Tanaka et al. teach wherein the layer manager handles data flow to each stack component of the protocol stack (col. 6, lines 21-59).

7. As to claim 4, Tanaka et al. teach a protocol stack, comprising:  
a plurality of stack components (fig. 3 and 4); and  
a layer manager (fig. 3, combination of items 101, 102, 103, 104, 105, 109 and 106) interfaced with each of the plurality of stack components, wherein the layer manager protocol is instrumented, wherein instrumenting the layer manager instruments the protocol stack (col. 6, lines 21-59).

8. As to claim 5, Tanaka et al. teach wherein the layer manager handles data flow to each of the plurality of stack components (col. 6, lines 21-59).

9. As to claim 6, Tanaka et al. teach computer readable medium, comprising:  
(a) receiving data from a first stack component of the protocol stack by a layer manager (col. 6, lines 21-59);  
(b) analyzing the data for instrumentation information by the layer manager (col. 6, lines 21-59; in fig. 3, combination of items 101, 102, 103, 104, 105, 109 and 106);  
and  
(c) routing the data to a second stack component of the protocol stack by the layer manager (col. 6, lines 21-59).

10. As to claim 7, Tanaka et al. teach medium comprising instructions for the layer manager to interface with each stack component of the protocol stack (fig. 3, combination of items 101, 102, 103, 104, 105, 109 and 106).

11. As to claim 8, Tanaka et al. teach medium comprising instructions for the layer manager to handle data flow to each stack component of the protocol stack (col. 6, lines 21-59).

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad O. Farooq whose telephone number is (571) 272-4144. The examiner can normally be reached on 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on (571) 272-4146. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KIM HUYNH  
PRIMARY EXAMINER

Mohammad O. Farooq  
January 23, 2005

